IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

[1] S.B. CIVIL WRIT PETITION NO.1795/99
MPSRTC **Versus** DTO, Jhalawar
[2] S.B. CIVIL WRIT PETITION NO.1867/99
MPSRTC **Versus** DTO, Jhalawar
[3] S.B. CIVIL WRIT PETITION NO.1865/99
MPSRTC **Versus** DTO, Jhalawar
[4] S.B. CIVIL WRIT PETITION NO.1866/99
MPSRTC **Versus** DTO, Jhalawar

DATE OF ORDER :: 27/04/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Sandeep Pathak for Mr. Bharat Vyas, for petitioners
Mr. B.K. Sharma, Dy.G.A.

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All the four petitions since involve common question are being decided by this present order.

Instant petitions have been filed assailing the assessment made by Assessing Authority dated 11th March, 1999 and since the payment was not made, the vehicles were also seized by passing specific order Ann.18 by the competent authority.

Basic contention of counsel for petitioners is that before passing order of assessment by Assessing Authority, opportunity of hearing was not afforded to them and in the absence whereof, the very action of the authority in passing order of assessment is in violation of principles of natural justice.

This fact is not disputed that the assessments which are impugned in the instant petitions are appealable under the relevant rules.

Counsel further made submission on merits assailing the assessment made by the authority.

I have considered the submission of both the counsel and perused the material available on record.

It appears from the record that initially the final assessment which was made by the Assessing Authority went up to the Rajasthan Taxation Tribunal and the Tribunal vide order dated 6th September, 1996 remanded the matter back to the District Transport Officer, Jhalawar for passing fresh assessment order after affording opportunity of hearing to petitioners in accordance with law – against which review application was filed by petitioners that too was dismissed vide order dated 1st April, 1998. In view of final order passed by the Taxation Tribunal, notices were issued from the office of respondents calling upon petitioners to appear before the District Authority on 9th December, 1998 for the purpose of producing the relevant record as directed by the Tribunal vide order dated 1st April, 1998, but despite notice, the relevant record, which was desired by the Assessing Authority, was not produced and after

affording ample opportunity, of which a detail reference has been made by the respondents, particularly, in Para 16 of their reply and relevant order-sheets in the form of Ann.R/8 to Ann.R/11 have also been placed on record and after affording reasonable opportunity of hearing to the petitioners, assessment orders were passed by the Assessing Authority on 11th March, 1999 and since the amount which was assessed was not paid – consequence followed thereafter.

Submission made by the counsel that opportunity was not afforded to petitioners in view of specific averment made by respondents in Para 16 of their reply which is duly supported by relevant material in the form of Ann.R/8 to Ann.R/11 does not hold good. Even in rejoinder filed by petitioners what has been specifically referred to by the respondents in their reply remained uncontroverted. In view of material which has come on record, I do not find any substance in the submission made by the counsel in regard to opportunity being not afforded to them.

So far as the objection with regard to merits of assessment made by the Assessing Authority is concerned, it involves question of facts and since there is provision of appeal available to petitioners, could have been examined by the Appellate Authority, if appeal could have been preferred against the assessment order made by the Assessing Authority.

Consequently, the present writ petitions fail and are hereby dismissed. No order as to costs.

Counsel for petitioners submits that they may be now permitted to prefer appeal against the assessments which are impugned in the instant petitions. Petitioners are always free to avail remedy available to them under law.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.